

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VERNELL WATTS,

Plaintiff,

v.

PATRICK COVELLO, et al.,

Defendants.

No. 2:22-cv-02311-EFB (PC)

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel and in forma pauperis in an action brought under 42 U.S.C. § 1983. As discussed in the concurrently issued screening order finding service of the first amended complaint appropriate for defendants Garibay, Pierce, Tsushko, and Vega, the first amended complaint names two additional defendants, Warden Patrick Covello and Chief Deputy Warden Bryan Holmes. The court recommends that the claims against defendants Covello and Holmes be dismissed without leave to amend because, despite an opportunity to amend, plaintiff has again failed to allege that either of these defendants personally participated in a violation of plaintiff's rights and their roles as supervisors are not a basis for liability. *See Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989); *see also Plumeau v. School Dist. # 40*, 130 F.3d 432, 439 (9th Cir. 1997) (denial of leave to amend appropriate where further amendment would be futile).


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1 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court randomly assign a
2 United States District Judge to this action.

3 Further, IT IS HEREBY RECOMMENDED that plaintiff's claims against Covello and
4 Holmes be dismissed without prejudice.

5 These findings and recommendations are submitted to the United States District Judge
6 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
7 after being served with these findings and recommendations, any party may file written
8 objections with the court and serve a copy on all parties. Such a document should be captioned
9 "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
10 within the specified time may waive the right to appeal the District Court's order. *Turner v.*
11 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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13 Dated: May 25, 2023.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE